

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS (SAN ANTONIO)**

IN RE: Robert Tovar and Cristina Tovar Debtor(s)	§	Case No. 25-50579-MMP
	§	(Chapter 13)
	§	
	§	OBJECTION TO CONFIRMATION FIRST
	§	AMENDED CHAPTER 13 PLAN
	§	
	§	Judge: Michael M Parker
	§	Ctrm:
	§	
	§	
	§	
	§	

**ALLY BANK'S OBJECTION TO CONFIRMATION OF FIRST AMENDED CHAPTER 13 PLAN
CONCERNING THE TREATMENT OF CLAIM SECURED BY A 2018 VOLKSWAGEN ATLAS
UTILITY 4D SE TECHNOLOGY 3.6L V6, VIN: 1V2DR2CA5JC528820**

COMES NOW, Ally Bank (“Creditor”), to Object to confirmation of First Amended Chapter 13 Plan (“Plan”) filed by Robert Tovar and Cristina Tovar (hereafter referred to as “Debtors”) and states the following:

BACKGROUND

1. On March 26, 2025, Debtors filed a voluntary bankruptcy petition under Chapter 13 of Title 11 of the United States Code ("Petition").

2. Creditor holds a security interest in the vehicle identified as a 2018 Volkswagen Atlas Utility 4D SE Technology 3.6L V6, VIN # 1V2DR2CA5JC528820 (the “Collateral”). Copies of the installment sales contract (the “Contract”) and evidence of title are attached as Exhibits “A” and “B,” respectively.

3. Creditor timely filed a Proof of Claim in the amount of \$26,446.25 on June 04, 2025 (“POC”). *See* Claim #8. The POC has not been objected to by Debtors or any other party.

4. The Collateral was acquired by Debtors for personal use.

5. The balance owed under the Contract at the time of Petition is \$26,446.25.

6. The First Amended Chapter 13 Plan filed proposes to pay Creditor's claim in the amount of \$17,113.00 at 8.50% interest over the term of 60 months.

GROUND FOR OBJECTION

Creditor objects to the Plan for the following reasons:

7. The Plan fails to provide for payment of the full amount of Creditor's POC. Under the hanging paragraph of § 1325(a)(9)(*), a debtor may not use § 506 to limit the secured portion of a claim to the collateral's value if the creditor has a purchase money security interest securing the debt that is the subject of the claim and the collateral was purchased within 910 days of the petition date. *Ford Motor Credit Co. v. Dale (In re Dale)*, 582 F.3d 568 (5th Cir. 2009) (purchase money obligations protected by hanging paragraph). In other words, when a debtor purchases a vehicle for personal use within 910 days of filing her bankruptcy, she may not cram down the value paid to the creditor over the life of her chapter 13 plan. Here, the Contract was entered into on March 21, 2024 - less than 910 days prior to the Petition. Creditor filed a POC in the amount of \$26,446.25 and such POC has not been objected to or set aside. As such, the Code requires payment of the full amount of Creditor's POC under the Plan. Debtors' Plan does not comply with §1325(a)(9)(*) as it fails to provide for payment of the full amount of Creditor's POC and fails to provide for sufficient ongoing post-petition payments on Creditor's secured claim.

WHEREFORE, Creditor asks the Court to deny confirmation of the First Amended Chapter 13 Plan, and dismiss the Chapter 13 case, or, in the alternative, convert the case under Chapter 7 of the Bankruptcy Code. Creditor asks for such other and further relief to which it is justly entitled.

Dated: June 11, 2025

/s/ Patrick M. Lynch

Patrick M. Lynch

State Bar #24065655

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CERTIFICATE OF SERVICE

I certify that on June 11, 2025, I caused to be served a true and correct copy of the foregoing Objection to Confirmation by electronic mail or by first class mail with postage prepaid on the following:

Via US Mail

Robert Tovar
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